

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
vs.) Case No. 3:16-CR-536-L
)
ALFREDO NAVARRO HINOJOSA,)
et al,)
Defendant.)

9 REPORTER'S TRANSCRIPT OF PROCEEDINGS
10 HAD ON FRIDAY, NOVEMBER 5, 2021
11 JURY TRIAL-VOLUME 18
12 BEFORE THE HONORABLE SAM A. LINDSAY,
13 U.S. DISTRICT JUDGE PRESIDING
A P P E A R A N C E S

15 MR. P.J. MEITL
MS. NICOLE DANA
MS. MELANIE SMITH
16 US Attorney's Office
1100 Commerce, 3rd Floor
17 Dallas, TX 75242
(214)659-8682
18 philip.meitl@usdoj.gov, nicole.dana@usdoj.gov,
melanie.smith@usdoj.gov
19
COUNSEL FOR THE GOVERNMENT
20
MR. CHRISTOPHER W. LEWIS
21 MR. LUKAS Z.S. GARCIA
Chris Lewis & Associates, PC
22 1717 Main Street, Suite 4625
Dallas, TX 75201
23 (214)665-6930
chris@lewisdefense.com, lgarcia@lewisdefense.com
24
COUNSEL FOR THE DEFENDANT ALFREDO NAVARRO HINOJOSA
25

Charyse C. Crawford, CSR, RPR
1100 Commerce, Room 1544, Dallas, Texas 75242
(214) 753-2373 Telephone
Charyse Crawford@txnd.uscourts.gov or charysecrawford@gmail.com

1 APPEARANCES CONTINUED -

2 MR. RAUL A. CANEZ
Law Office of Raul A. Canez
3 P. O. Box 1966
Fort Worth, TX 76101
4 817-886-0651
raul.canez@canezlaw.com

5 COUNSEL FOR DEFENDANT CESAR MENDEZ
6

7 MR. CHRISTOPHER MONROE KNOX
Law Office of Chris Knox
8 900 Jackson Street, Suite 650
Dallas, TX 75202
9 (214) 741-7474
chrisknox@knoxcriminaldefense.com

10 COUNSEL FOR DEFENDANT MIGUEL CASAS
11

12 MR. MICHAEL P. GIBSON
MR. CARL D. MEDDERS
13 Burleson Pate & Gibson LLP
900 Jackson Street, Suite 330
14 Dallas, TX 75202
(214) 871-4900
15 mgibson@bp-g.com, dmedders@bp-g.com

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

VOLUME PAGE

JURY VERDICT XVIII 4
REPORTER'S CERTIFICATE XVIII 37

1 (THE FOLLOWING PROCEEDINGS WERE HAD IN OPEN COURT,
2 WITH ALL PARTIES AND COUNSEL PRESENT, AND OUTSIDE THE
3 PRESENCE AND HEARING OF THE JURY.)

4 THE COURT: All right, be seated, please.

5 THE INTERPRETER: The interpreter has been
6 advised that he can't hear her. May she have a moment?

7 THE COURT: You may.

8 (PAUSE IN PROCEEDINGS.)

9 THE COURT: The Court is sorry for the delay.
10 There should be someone up here momentarily, so we can
11 get started.

12 THE INTERPRETER: Your Honor, may the interpreter
13 approach?

14 THE COURT: You may.

15 THE INTERPRETER: Thank you, Judge.

16 THE COURT: Are yes ready to proceed?

17 THE INTERPRETER: Yes, Your Honor. Thank you.

18 (THE FOLLOWING PROCEEDINGS WERE HAD IN OPEN COURT,
19 WITH ALL PARTIES AND COUNSEL PRESENT, AND WITHIN THE
20 PRESENCE AND HEARING OF THE JURY.)

21 THE COURT: The Court has the decision of the
22 jury on all of the counts. On some of the counts, the
23 jury stated that it was unable to reach an agreement, and
24 others there were findings of guilt, and the Court will
25 state that now.

1 Members of the jury, after I read the decision
2 of the jury, I will poll the jury. When I call your
3 name, please stand, I will ask you whether this is your
4 verdict or your decision.

5 Okay, verdict of the jury, we, members of the jury
6 find Defendant Alfredo Navarro Hinojosa with respect to
7 Count 1, Count 2, Count 3, Count 4, Count 5, Count 6,
8 Count 7, Count 8, Count 10, Count 11, Count 13, Count 14,
9 Count 15, Count 16, Count 17, Count 18 that we are unable
10 to reach an agreement as to those counts.

11 With respect to Count 19 of the jury -- with respect
12 to Count 19 of the indictment, the jury finds Defendant
13 Hinojosa guilty. With respect to Count 20 of the
14 indictment, the jury finds the Defendant Hinojosa guilty.
15 With respect to Count 21 of the indictment, the jury is
16 unable to reach a verdict as to that count. With respect
17 to Count 25 of the indictment, the jury finds Defendant
18 Hinojosa guilty.

19 With respect to Count 25, the question is if you
20 answered guilty, what do you find by proof beyond a
21 reasonable doubt was the amount of the mixture or
22 substance containing a detectable amount of cocaine, you
23 are to please check one of the blanks below. The jury
24 checked the first blank which is five kilograms or more.

25 With respect to Defendant Miguel Casas, regarding

1 Counts 1, 2, 3, 4, 5, 6, 7, 8, 10, 14, 15, 16, 17, and 18
2 of the indictment, the jury was unable to reach an
3 agreement. With respect to 19 of the indictment, the
4 jury finds Mr. Casas guilty of that count. The jury
5 finds him guilty of Count 20 of the indictment, and the
6 jury finds him guilty of Count 25. The question was
7 asked with respect to Count 25 of the indictment, the
8 jury answered the question that the amount of the mixture
9 or substance containing a detectable amount of cocaine
10 was five kilograms or more.

11 With respect to Defendant Martin Salvador Rodriguez
12 concerning Counts, 1, 2, 3, 4, 5, 6, 7, 8, 10, 14, 15,
13 16, 17, and 18 of the indictment, the jury was unable to
14 reach an agreement as to those counts.

15 With respect to Count 19 of the indictment, the jury
16 found Mr. Rodriguez guilty of that count. The jury also
17 found him guilty of Count 20 of the indictment, and also
18 found him guilty of Count 25 of the indictment.

19 With respect to Count 25, the jury found that the
20 mixture or substance containing a detectable amount of
21 cocaine was five kilograms or more.

22 All right, you may be seated. With respect to
23 Defendant Cesar Mendez, the jury found him guilty of
24 Count 25 of the indictment. With respect to that count,
25 the jury answered the question concerning the mixture or

1 substance containing a detectable amount of cocaine was
2 five kilograms or more. The jury found Mr. Mendez guilty
3 of Count 31 and Count 32 of the indictment.

4 All right, you may be seated, Mr. Canez and
5 Mr. Mendez.

6 All right, Ms. Hatcher, is this your verdict or
7 decision?

8 JUROR HATCHER: Yes, Your Honor.

9 THE COURT: Thank you.

10 You may be seated.

11 Mr. Blackard, is this your verdict or decision?

12 JUROR BLACKARD: Yes, Your Honor.

13 THE COURT: Thank you.

14 Ms. Irvin, is this your verdict or decision?

15 JUROR IRVIN: Yes, Your Honor.

16 THE COURT: Thank you.

17 Mr. Evetts, is this your verdict or decision?

18 JUROR EVETTS: Yes, Your Honor.

19 THE COURT: Thank you.

20 Mr. Edwards, is this your verdict or decision?

21 JUROR EDWARDS: Yes, Your Honor.

22 THE COURT: Thank you.

23 Mr. Romero, is this your verdict or decision?

24 JUROR ROMERO: Thank you.

25 Mr. Bascombe, is this your verdict or decision?

1 JUROR BASCOMBE: Yes, Your Honor.

2 THE COURT: Thank you.

3 Ms. Harris, is this your verdict or decision?

4 JUROR HARRIS: Yes, Your Honor.

5 THE COURT: Thank you.

6 Mr. Gonzalez, is this your verdict or decision?

7 JUROR GONZALEZ: Yes, Your Honor.

8 THE COURT: Mr. Tobola, is this your verdict or
9 decision?

10 JUROR TOBOLA: Yes, Your Honor.

11 THE COURT: And Mr. McClure, is this your verdict
12 or decision?

13 JUROR McCLURE: Could you clarify for
14 Mr. Mendoza(sic), Count 25, if the box.

15 THE COURT: You said Count 25 as to Mr. Mendez?
16 What was your question?

17 JUROR McCLURE: Could clarify the box had been
18 checked for that?

19 THE COURT: Five kilograms or more.

20 JUROR McCLURE: I believe that is in correct.

21 THE COURT: That's box that is checked. That is
22 the box that is checked on the form that the Court has.

23 JUROR McCLURE: That's not what we voted on.

24 THE COURT: All right, I want clarification
25 because on the verdict form that I have on all four

1 Defendants, that is the blank that is checked, so I will
2 ask Mr. Evetts. You are the presiding juror; is that
3 correct?

4 JUROR EVETTS: Yes, Your Honor.

5 UNIDENTIFIED JUROR: In regards to that issue, I
6 actually believe you proofread yesterday, so we all
7 looked at it before turning it in and saw that it was in
8 agreement with everybody.

9 UNIDENTIFIED JUROR: that's not what we put.
10 Juror.

11 UNIDENTIFIED JUROR: You proofread it.

12 THE COURT: Let me ask this question, Mr. Tobola,
13 you say that the jury did not vote or check the first
14 box? Five kilograms or more? I am asking you, you are
15 the one who is raising the issue I am trying to get it
16 straight.

17 JUROR McCLURE: We did not check that box. We
18 did our votes we checked the middle box.

19 THE COURT: All right, I am going to have to
20 start back. There seems to be controversy about that
21 box. Ms. Hatcher, which box do you recall the jury
22 agreed on?

23 JUROR HATCHER: Five kilograms or more.

24 THE COURT: Mr. Blackard?

25 JUROR BLACKARD: Five kilograms or more.

1 THE COURT: Ms. Irvin?

2 JUROR IRVIN: Five kilograms or more.

3 THE COURT: Mr. Evetts?

4 JUROR EVETTS: Five kilograms or more.

5 THE COURT: Mr. Edwards?

6 JUROR EDWARDS: Five kilograms or more.

7 THE COURT: Mr. Romero?

8 JUROR ROMERO: Five kilograms or more.

9 THE COURT: Mr. Romero -- I am sorry.

10 Mr. Bascombe?

11 JUROR BASCOMBE: Five kilograms or more.

12 THE COURT: Ms. Harris?

13 JUROR HARRIS: Five kilograms or more.

14 THE COURT: Mr. Gonzalez.

15 JUROR GONZALEZ: Five kilograms or more.

16 THE COURT: For those of you who said this was
17 your answer, is that as to all four Defendants?

18 JURORS: (In unison) Yes, sir.

19 THE COURT: Well, I am going to come back to you
20 Mr. Tobola. Let me see what else happens. All right,
21 Mr. McClure, -- all right, just one minute. I need to
22 clarify something. I thought a while ago when I said
23 Mr. Tobola, you stood up for Mr. McClure.

24 JUROR TOBOLA: I thought you got my name wrong
25 because I was the next one.

1 THE COURT: When I said Mr. Tobola, you stood up.
2 Let me back up a minute. Mr. Tobala, where are you, sir?

3 JUROR TOBOLA: Right here.

4 THE COURT: Is this your verdict or decision,
5 sir, that the Court read out?

6 JUROR TOBOLA: It is correct, definitely over
7 five kilograms.

8 THE COURT: All right, thank you. Thank you, sir.

9 Now, you come to you, Mr. McClure. So far what I
10 heard from the individuals I have called on they said
11 five kilograms or more, is that your understanding or are
12 you saying that is mistaken or did misunderstand.

13 JUROR McCLURE: That is mistaken or changed. I
14 mean I have my notes to show otherwise.

15 THE COURT: Take off your mask so I can hear you.

16 JUROR McCLURE: That was changed. I don't know
17 why or how, but that was changed. That was not the vote
18 we discussed, and that was not the vote we came to, and I
19 made notes of the votes on my verdict sheet when it
20 happened, and that is not the case. I don't know how
21 this happened, and I don't know why people are saying
22 otherwise now. It is not the case.

23 THE COURT: Mr. Tobola.

24 JUROR TOBOLA: Your Honor, this has been
25 recurring for the five days that this juror has been

1 changing his mind and has been toxic in some of the
2 discussions. We try to be diplomatic. He says we have
3 been bullying him, slamming the door, walking out. I
4 have never been on a case like this, and this is just
5 another example, and we all agreed. We all walked out,
6 and he changed his mind last minute. I don't know what
7 else to say. I have never seen anything like this. I
8 apologize to the Court. I think everybody has been
9 frustrated for the last five days. I don't know.

10 THE COURT: Thank you, Mr. Tobola. I see another
11 juror's hand.

12 UNIDENTIFIED JUROR: I think that we have decided
13 on a different quantity on a different count, and I was
14 wondering --

15 THE COURT: A different quantity on what?

16 UNIDENTIFIED JUROR: A different quantity on a
17 different count.

18 THE COURT: This is the only count that asked
19 about a quantity. Count 25 is the only poll concerning
20 what was the amount of the mixture or substance.

21 UNIDENTIFIED JUROR: I am wondering if that may
22 be the source of the confusion.

23 THE COURT: Address your comments to the Court
24 and please remove your mask and stand so we can
25 understand what is going on. The Court is going to have

1 to resolve this matter.

2 MR. MEITL: Your Honor, could we approach?

3 THE COURT: You may.

4 (THE FOLLOWING PROCEEDINGS WERE HAD AT THE BENCH,
5 WITH ALL COUNSEL PRESENT, AND OUT OF THE HEARING OF THE
6 JURY.)

7 THE COURT: Mr. Meitl?

8 MR. MEITL: Yes, Your Honor. I want to make sure
9 we don't cause an appellate issue. I know that is the
10 Court's concern. My understanding is Mr. McClure says
11 there is an issue with the weight that goes to Mr. Mendez
12 only, only Mr. Mendez. From what I understood
13 Mr. McClure said he agreed that Mr. Mendez was
14 responsible for the
15 5 to 40 offense. The other eleven jurors, it was ten to
16 life. If that is the only source of disagreement, I
17 don't think that is an issue that needs too much -- I
18 want to honor the jury's verdict.

19 I don't anticipate Mr. Mendez getting more than 40
20 years. I don't want to cause a huge appellate issue and
21 throw this back into a mess if the 5 to 40 is a lesser
22 included of 10 to life, and Mr. McClure is agreeing it is
23 5 to 40, let's take that and move forward.

24 THE COURT: I think the better way to handle
25 this, are you saying -- I didn't hear the first part of

1 what you said. Are you saying that Mr. McClure is saying
2 that it was only that way as to Mr. Mendez?

3 MR. MEITL: That's what I heard.

4 THE COURT: Let's get that clarification.

5 MR. MEITL: Yes, Your Honor. If that is it, I
6 want to cabin and not create other appellate issues and
7 deal with that issue.

8 THE COURT: Let's see what the rest of the jurors
9 say.

10 MR. MEITL: Yes, Your Honor, the other jurors
11 started standing up, and Mr. Tobola started saying what
12 happened in the room. I want to leave that out of the
13 record.

14 THE COURT: I do too.

15 MR. MEITL: I think the only issue is with
16 Mr. Mendez and the weight. And if that is it, I honestly
17 think the parties, Mr. Canez and myself and the Court can
18 come to an agreement that will resolve this.

19 THE COURT: Okay, I need to ask that question
20 then now, so we can move on. I don't know what
21 Mr. McClure's issue is, but he stood up when I called on
22 Mr. Tobola and that caused confusion, and that is why I
23 asked for clarification. If it only pertains to
24 Mr. Mendez, I do think it is an issue that is between
25 Mr. Canez and the government.

1 MR. MEITL: Yes, Your Honor.

2 THE COURT: I am just talking about your client.

3 MR. CANEZ: Yes, Your Honor.

4 THE COURT: Let me get clarification. If that is
5 the case, I will be honest with you, Mr. Meitl, I have no
6 idea what Mr. McClure is going to say.

7 MR. MEITL: I understand.

8 THE COURT: Frankly speaking, based on what I
9 have heard and all of you here, I do not know what he is
10 going to say. It could be explosive. It could be
11 contradictory because what I am trying to do is narrow.

12 MR. MEITL: The reason I think it is that is
13 that your verdict he said -- he misstated the last
14 Defendant's name as "Mendoza." I think he meant Mendez.
15 If that is the only issue Mr. McClure has, let's leave it
16 at that. Let's not let the other jurors talk about what
17 happened in the room. That is a problem.

18 MR. KNOX: The only concern I have is this.

19 THE COURT: Let me ask this. Is this concerning
20 your client?

21 MR. KNOX: I believe so, Judge.

22 THE COURT: I don't believe so. For the sake of
23 argument, we are talking about Mr. Mendez, and when asked
24 for clarification, if he says it only pertains to
25 Mr. Mendez that Mr. Meitl correctly stated he said

1 "Mendoza," and I corrected him, and he acknowledged that.
2 If it only pertains to Mr. Mendez --

3 MR. KNOX: I understand the Court's position, but
4 the only thing I was going to say, Judge, there is
5 another juror who says that he thought there was
6 quantities related to more than one count. That is not
7 accurate, and I think that is something that needs to be
8 explored if they have reached a verdict on something they
9 didn't understand the charge. I think that is an issue.

10 THE COURT: I really think you may be muddying
11 the waters. I heard what he said. I think we understand
12 the issue, and let's not make it more complicated than it
13 is. Once again, I will tell the parties it depends on
14 how Mr. McClure answers this question, but he did
15 misstate Mr. Mendez's name first. He called him Mendoza,
16 and I think maybe what that other individual said, the
17 other juror said is what he perhaps was trying to
18 articulate when he talked about other counts, he may have
19 been talking about as to Mr. Mendez. That is what I want
20 to get clarified.

21 (THE FOLLOWING PROCEEDINGS WERE HAD IN OPEN COURT,
22 WITH ALL PARTIES AND COUNSEL PRESENT, AND WITHIN THE
23 PRESENCE AND HEARING OF THE JURY.)

24 THE COURT: Mr. McClure, the Court is going to
25 ask you a question. When I first started talking to you,

1 you referred to the Defendant as Mr. Mendoza, and we
2 corrected that. It is Mr. Mendez. Am I correct, I want
3 to make certain that I am, that your issue with the
4 amount of the mixture or substance only pertains to the
5 count against Mr. Mendez?

6 JUROR McCLURE: Correct.

7 THE COURT: All right. Stay with me. I am going
8 somewhere. So you do not have any objection or concern
9 as to any of the other three Defendants concerning Count
10 25; is that correct?

11 JUROR McCLURE: Correct.

12 THE COURT: All right, if that is the issue --
13 okay, if that is the issue, the Court can resolve that
14 from a legal standpoint. Just so it is clear on the
15 record, there is no issue with respect to Count 25 as to
16 the other three Defendants; is that correct?

17 JUROR McCLURE: That's correct.

18 THE COURT: You are in agreement that it was five
19 kilograms or more with respect to the other three
20 Defendants?

21 JUROR McCLURE: Correct.

22 THE COURT: All right.

23 MR. MEITL: Your Honor, would it be appropriate
24 to ask whether he checked the middle box, not the over
25 five kilograms. I think that is what he said. I want to

1 make sure that is clear for the record. I know it is not
2 on the verdict form. I believe that is what Mr. McClure
3 said.

4 THE COURT: Is that correct, Mr. McClure?

5 PROSPECTIVE JUROR: It was like 1.5, the middle
6 option.

7 MR. MEITL: Can I read it, Your Honor?

8 THE COURT: Yes, the middle option says at least
9 500 kilograms, but less than 5 kilograms.

10 JUROR McCLURE: That is correct.

11 THE COURT: That is the one you checked with
12 respect that you are saying the one that applies to
13 Mr. Mendez; is that correct?

14 JUROR McCLURE: That is correct.

15 THE COURT: All right, thank you.

16 All right, let's move forward Ms. Shanks, is this
17 your verdict or decision?

18 JUROR SHANKS: Yes, Your Honor.

19 THE COURT: Thank you.

20 Ms. Felix, is this your verdict or decision?

21 MR. MEITL: She was an alternate.

22 THE COURT: Did I miss anyone? All right,
23 Ms. Shanks, let me ask you a question. I want to make
24 sure the correct -- that I heard your answer correctly.
25 With respect to the verdict as the Court read it, is that

1 your verdict or decision?

2 JUROR SHANKS: Yes, Your Honor.

3 THE COURT: All right, thank you.

4 All right, Mr. Travis, you may take the jury out.

5 THE COURT SECURITY OFFICER: All rise.

6 (THE JURY WAS EXCUSED FROM THE COURTROOM, AND THE
7 FOLLOWING PROCEEDINGS WERE HAD IN OPEN COURT AND OUT OF
8 THE PRESENCE AND HEARING OF THE JURY.)

9 THE COURT: All right, is there anything else?

10 MR. MEITL: That's a loaded question, Your Honor.

11 THE COURT: That's why I asked it like that.

12 MR. MEITL: Yes, Your Honor, if I can, I am going
13 to expound upon what happened for the record's sake. I
14 think it was very clear the verdict of the jury as to
15 Mr. Hinojosa, Mr. Casas, and Mr. Rodriguez. There was no
16 disagreement by the jury as to the counts as they were
17 read. These Defendants were convicted of a 10-to-life
18 offense as well as other offenses.

19 As to Mr. Mendez, he was convicted of all of the
20 offenses for which he was charged. The only issue was
21 Mr. McClure (will redact to Juror Number) stood up and
22 stated he only agreed to the lesser included drug weight
23 amount as to the overall conspiracy. The other 11 jurors
24 stated the entire jury had agreed to the higher amount
25 which would make it a ten to life.

1 Mr. McClure (redact to Juror Number) disagreed with
2 that. I think in the end that becomes a legal issue that
3 the Court and the parties Mr. Canez and the government
4 can work on come sentencing, but it doesn't have anything
5 to do with whether he is convicted, whether it is a
6 lesser included, a lesser included penalty. There is
7 nothing else from the government.

8 There is the issue, though, of detention for the
9 Defendants. The government does believe that the three
10 Defendant should be detained. They have now been
11 convicted of an offense that requires them to be detained
12 unless there are circumstances. We understand the Court
13 is in trial. If the Court would prefer to have that
14 hearing heard by a magistrate next week, we have no
15 objection, but they should be detained in the meantime.

16 THE COURT: All right, let me hear from the
17 defense. Mr. Garcia?

18 MR. GARCIA: Thank you, Your Honor. Your Honor,
19 first of all, we will renew our Rule 29 motion. We will
20 submit a written filing within the prescribed time limit.

21 Second of all, we would ask the Court to extend
22 the time or the response period for a motion for new
23 trial by a period of 30 days. Finally, with regard to
24 detention, we do not believe that detention is warranted
25 in this case. I understand that there is a presumption

1 given the ten to life charge that Mr. Hinojosa was found
2 guilty on. However, we do believe that there are
3 exceptional circumstances that would warrant his
4 remaining out on conditions of release pending
5 sentencing.

6 Mr. Hinojosa has been on conditions of release for
7 what seems like multiple, multiple years.

8 THE COURT: Let me say this about that. Insofar
9 as being on release, the stakes have changed, and we are
10 operating on a situation whether or not a defendant
11 should be released pending sentence, and I think the
12 operative thing hear that we have to keep in mind is that
13 we have to go back to subsection (f)(1) of 3142 and
14 (f)(1)(B) provides that the person should be taken into
15 custody for offense for which the maximum sentence is
16 life imprisonment or death, and Count 25, the minimum
17 sentence range is 10 years to life.

18 Now, if there is going to be an exception, it is
19 set out in the statute, and I think I can safely conclude
20 that one of those conditions is not met based on the
21 motion made. The exception would be if a judicial
22 officer finds there is a substantial likelihood that a
23 motion for acquittal or new trial will be granted or an
24 attorney for the government has recommended that no
25 sentence of imprisonment will be imposed on the person.

1 I think I am reading Mr. Meitl correctly. I don't
2 think he is going to make that recommendation.

3 MR. GARCIA: I would agree with that, Your Honor.

4 THE COURT: Mr. Meitl just nodded his head
5 affirmatively. The other thing would be that either I or
6 the magistrate judge would have to find no substantial
7 likelihood that motion for acquittal or new trial will be
8 granted, and the Court has to find by clear and
9 convincing evidence that the person is not likely to flee
10 or pose a danger to any other person on the community.
11 So it seems to me that would require evidence. I cannot
12 go strictly on argument.

13 MR. GARCIA: Your Honor, I would agree with that.
14 I guess in the interest of the Court's time if the Court
15 would be inclined to recess this issue to set it before a
16 magistrate or set it for another time, we are fine with
17 that. I did not know if the Court wanted to hear a full
18 position as to why we are arguing against detention.

19 THE COURT: To make a decision, I am going to
20 have to hear evidence not argument is what I am saying.
21 If there is going to be evidence, that is going to
22 require a hearing. It is going to require more than five
23 minutes, and as I stated before, the stakes have changed.
24 In other words, it is one thing when a person is on bond
25 or free during the course of trial. Once there has been

1 a conviction, a finding of guilt on some counts, the
2 stakes change.

3 MR. GARCIA: I agree with that.

4 THE COURT: The real question is what happens in
5 the meantime?

6 MR. GARCIA: Your Honor, I believe that
7 Mr. Hinojosa does not pose a threat to flee. I
8 understand that in order for a full decision to be made
9 that a hearing with evidence presented needs to occur.
10 However, between the period of now and that hearing
11 actually occurring, he does not pose a threat to flee.
12 He has very substantial ties to this area, family, a
13 young child, a wife, a home, he has multiple businesses
14 where he employs I believe above four hundred employees.
15 There are significant ties. He would be in the process
16 of winding up until we could have that hearing.

17 THE COURT: Let me say this. I think that in the
18 23 years I have been here, I have had several defendants
19 who have fled and all of them fled after they have been
20 found guilty and awaiting sentencing. Or there were a
21 couple of cases whereby I let somebody out after the
22 person had been sentenced and gave that person so many
23 days to report, and I had one or two individuals not show
24 up then. They were eventually caught, and it didn't fare
25 well for them because they were charged with another

1 crime in addition to the crime they had been convicted
2 of.

3 So my point is I really cannot think where a
4 person did not show up for his trial. Well, there was a
5 situation where a person did not show up. You but as
6 stated before the persons who have not shown up and fled,
7 the vast majority have been between the finding of guilty
8 and sentencing, so I would have to have evidence on this.

9 I strictly cannot go by argument. I would say that
10 for all defendants. I am going to have to be presented
11 with evidence. For example, as the parties well know,
12 the Court did not detain Mr. Rodriguez, although the
13 government wanted him detained prior to trial. We are
14 looking at a different set of circumstances. I ruled
15 that I thought the magistrate judge had erred. The Court
16 does not make a decision because one party or another
17 moves for that particular decision.

18 The reason why we take that seriously is because I
19 realize that is a serious issue as to whether or not the
20 person should be detained. But my position is that I
21 would have to hear more evidence, not argument before the
22 Court could allow the three who are not confined to
23 remain.

24 Mr. Gibson you were going to say about.

25 MR. GIBSON: Judge, is it going to everybody's

1 argument?

2 THE INTERPRETER: The interpreter respectfully
3 request the attorneys use the microphones when making
4 argument.

5 MR. GIBSON: I understand the Court's position
6 and the position of the government and requesting
7 detention. What I raise is I recommend as you suggest,
8 Your Honor, that the Court recess this hearing, they go
9 into custody, and let us schedule a hearing where we can
10 discuss what evidence is viable in a timely manner to see
11 that the Court may there are combinations of conditions
12 of release even though subsequent to conviction that the
13 Court can impose.

14 So on behalf of my client, I am not asking the
15 Court to rule and decide. I am asking the Court to
16 recess this hearing, take them into custody and schedule
17 the hearing where the Court can have evidence and fact
18 and whatever can be presented for consideration.

19 THE COURT: All right, thank you, Mr. Gibson.
20 Mr. Mendez is in custody. I don't know what your
21 position, is Mr. Canez.

22 MR. CANEZ: Your Honor, on this issue, like you
23 stated, he is already in custody, and I would assume and
24 I would advise him that that will continue.

25 THE COURT: All right, thank you, sir.

1 Mr. Knox?

2 MR. KNOX: Yes, Judge, on behalf of Mr. Casas and
3 with all due respect to Mr. Gibson, we would request that
4 Mr. Casas be allowed to remain out on bond until the
5 hearing can be set if the Court would recess this and let
6 him remain on bond until that hearing until a decision
7 can be reached.

8 Just by way of proffer, I certainly anticipate that
9 there is going to be extended, expansive evidence that
10 establishes Mr. Casas' ties to the community, and he is
11 not a flight risk in any shape or form. I understand the
12 Court says the stakes have changed. I certainly respect
13 the Court taking into consideration the other times that
14 other defendants have run, but with all due respect, I
15 don't believe that that is exactly relevant to Mr. Casas
16 as a person.

17 I submit to the Court that I have every reason to
18 trust and believe he will show up as he has been
19 instructed to do at any hearing that the Court will set
20 in the future, and we certainly ask that he stay out on
21 bond until that hearing can be set. Thank you, Judge.

22 THE COURT: All right, thank you, Mr. Knox.

23 The point that the Court was making his that the
24 time that the person has fled, the vast, vast majority of
25 the time has been between the finding of guilt and why

1 that person is awaiting sentencing. That is the Court's
2 point.

3 Mr. Meitl, did have you something else?

4 MR. MEITL: I am going to say in my experience,
5 Ms. Dana and Ms. Smith's experience, we have done
6 magistrate court proceedings and any other AUSA, we
7 cannot recall a single instance when an individual was
8 arrested or found guilty, a detention hearing was set for
9 some days later and they were released. I can't think of
10 a single time. There should be no excuse here for these
11 Defendants. They should not be treated differently than
12 all other Defendants, thousands of Defendants we handled
13 or Mr. Mendez or anyone else when a detention hearing is
14 set, the standard in this courthouse is you are held in
15 custody until such time, and I think that is appropriate
16 here. That includes when we have the burden. We don't
17 have the burden. There is a presumption they should be
18 detained in this case. They should be detained pending
19 that time.

20 THE COURT: I agree with you. Not only is the
21 burden on the defense, but also the heightened standard.
22 It is not preponderance of the evidence. It is by clear
23 and convincing evidence which is one step below proof
24 beyond a reasonable doubt.

25 MR. GARCIA: Your Honor, if I may just briefly.

1 I didn't get a chance to respectfully respond to
2 Mr. Gibson's statement. I would join with Mr. Knox and
3 say and ask the Court to keep Mr. Hinojosa out until we
4 have that hearing. Similar to the proffer that Mr. Knox
5 made, I believe there will be ample evidence, and I
6 believe we will be able to meet the burden of clear and
7 convincing evidence. I do. And I guess with respect to
8 Mr. Meitl's statement just now, although somewhat
9 different, there is a situation where a client who has
10 been on conditions of bond, pleads guilty, is found
11 guilty of the offense by way of a plea agreement, and is
12 -- is kept out on conditions of release until this
13 hearing is had. That has happened in a case that we have
14 had before this court. It was held before a magistrate
15 judge, but this Court accepted a plea agreement where the
16 presumption rose, and that Defendant was kept out on
17 conditions of bond until we could have that hearing.

18 THE COURT: Which defendant are you talking
19 about?

20 MR. GARCIA: His name was James Moria. It's a
21 different case, not a drug case, but similar to
22 Mr. Hinojosa he was elderly, and he was ultimately kept
23 out on conditions of release pending sentencing. There
24 was no issues with him not showing up. Similar to
25 Mr. Hinojosa, there has never been an issue of him not

1 showing up when he is required to. Your Honor, I just
2 want to make sure that my position with regard to him
3 being taken into custody pending the sentencing or the
4 hearing is at least on the record.

5 MR. GIBSON: Judge, may I?

6 THE COURT: Let me make sure that Mr. Garcia is
7 finished.

8 MR. GARCIA: Yes, Your Honor.

9 THE COURT: Thank you, sir.

10 MR. GIBSON: My fault for getting out of order in
11 a way. It is my fault. I wouldn't want to stand in
12 front of fellow lawyers and their clients, so I'm making
13 the same request. I want the record to show on behalf of
14 Mr. Rodriguez we are making the same request. We think
15 there is ample evidence in this case, and Mr. Rodriguez
16 is not a risk of flight between conviction and sentencing
17 or anything like that. My suggestion about having the
18 hearing was one to try to be sure that we didn't waive a
19 right for the hearing, and I think the Court can find as
20 indicated strong ties, strong support, strong family
21 support, et cetera, all things the Court can consider in
22 determining whether he should be released on conditions
23 of release. So I want the record to be clear on that
24 point. My earlier suggestion is procedural, not to have
25 the Court close this hearing, but to recess it so that we

1 can continue to produce evidence for the Court.

2 THE COURT: If I understand you correctly,
3 correct me if I am wrong, earlier, you said that you
4 thought your client should be taken into custody.

5 MR. GIBSON: I want to correct that. I am asking
6 the Court not to take him into custody without question.
7 I am also asking the Court procedurally to recess the
8 hearing and not make a finding here today and have the
9 hearing at the time the Court can set it to develop the
10 evidence that we think we can produce on behalf of our
11 client.

12 THE COURT: I have tried to look down through the
13 muddy water and spot the fish. Here is the bottom line.
14 What I am hearing is all of the Defendants say and I
15 think the record will accurately reflect this is that
16 they quote, unquote, believe there is ample evidence that
17 they should not be taken into custody. I have not heard
18 that evidence. I am not sure how ultimately that plays
19 out, but as we sit here now, the Court has not heard that
20 evidence. The Court has not heard that, quote, unquote,
21 clear and convincing evidence.

22 Based on that I think it would be inappropriate for
23 the Court to not take the three Defendants into custody.
24 Mr. Mendez is already in custody, and the Court believes
25 he should remain in custody, and that is, frankly

1 speaking, because of the offense of conviction, and I am
2 talking about Count 25, the range is 10 years to life.
3 Also he was convicted on some other counts, two other
4 counts. Based on the statement of the record, the Court
5 agrees with the government that Mr. Hinojosa, Mr. Casas,
6 and Mr. Rodriguez should be taken into custody, and the
7 Court instructs the marshals to take these three
8 individuals into custody.

9 The Court will recess this matter and either the
10 Court will hear this matter itself or refer it to a
11 magistrate judge for a hearing. I will direct the
12 magistrate judge if it is referred to him or her, then
13 the request would be that the magistrate judge rule on
14 this matter expeditiously. That is the ruling of the
15 Court.

16 MR. MEITL: One last thing, Your Honor.

17 THE COURT: All right.

18 THE COURT: Go ahead.

19 MR. MEITL: Your Honor, I understand and I want
20 to make it clear for all the parties that the Northern
21 District's practice is lawyers do not speak to jurors
22 after a verdict. I want to make sure that is the Court's
23 instruction here, particularly, with what we have seen
24 that includes the lawyers, defendants, or anyone working
25 on behalf of the defendants or the lawyers.

1 THE COURT: Well, my position is neither side,
2 the attorneys for neither side or anybody working with
3 them or on behalf of them can speak to the jurors without
4 a motion filed by that party, and based on any such
5 motion, the Court would rule on this motion.

6 I will be frank about this matter. Given what has
7 been said here, I think questions can be asked of jurors
8 that are misleading and attorneys can get answers that he
9 or she wants, and the motion is filed and the Court hears
10 it. It is not like what is conveyed in the motion. Just
11 so it is clear, no attorney or anybody acting on behalf
12 of an attorney or has any association with such attorney
13 or attorney for any of the parties in this case may not
14 contact any jurors or attempt to contact any of the
15 jurors without filing a motion and obtain a ruling from
16 the Court.

17 All right, as previously stated, Defendants
18 Hinojosa Casas, and Rodriguez will be taken into custody
19 by the marshals, and the Court will either personally
20 hear this or refer the matter to the magistrate judge for
21 determination.

22 Is there anything further on this case? One other
23 thing, I will go ahead and provide sentencing dates.

24 With respect to Mr. Mendez, the Presentence Report
25 is due February 4, 2022; sentencing hearing is Thursday,

1 April 21, 2022 at 9:30 p.m.

2 With respect to Mr. Hinojosa, the Presentence
3 Report is due February 4, 2022; the sentencing hearing is
4 due -- sentencing hearing will take place on April 21,
5 2022, 1:30 p.m.

6 With respect to Mr. Casas, the Presentence Report
7 is due February 11, 2022; sentencing hearing is April 22,
8 2022 at 9:30 a.m.

9 With respect to Mr. Martin Salvador Rodriguez, the
10 Presentence Report is due February 11, 2022, and the
11 sentencing hearing is April 22, 2022, at 1:30 p.m.

12 The Court will issue a written order setting forth
13 the information that it just set or just read into the
14 record, and also the order will contain the deadlines for
15 objections and other matters as necessary with respect to
16 each sentencing.

17 All right, is there anything further?

18 MR. CANEZ: One more thing, Your Honor.

19 THE COURT: Yes, sir.

20 MR. CANEZ: This is a rare occasion for me
21 because we don't know -- we have three convictions, but
22 we don't know the amount. The prosecutor commented that
23 there may be something that we could work out and present
24 to the Court. What I would like to do is during the time
25 that we are recessing is talk with the prosecutor, see

1 what he is talking about and do my own research and
2 present that to the Court.

3 THE COURT: That's fine.

4 MR. CANEZ: Thank you.

5 THE COURT: Mr. Knox?

6 MR. KNOX: Thank you, Judge. I know Mr. Garcia
7 touched on the preserving the Rule 29, and to the extent
8 it is necessary for the Court and the record, I would
9 like to join that as well. If this information is out
10 there, and I overlooked it, I apologize.

11 Is there a specific time that the Court would
12 require those if we are going to file written motions for
13 Rule 29?

14 THE COURT: I thought Rule 29 addressed that.

15 MR. KNOX: It may, Judge. I will withdraw my
16 question. Thank you.

17 THE COURT: You younger lawyers, y'all are not
18 carrying the books around like us more seasoned lawyers.
19 Y'all are so tech savvy. I am still old school. If my
20 memory is correct, a motion for new trial or judgment of
21 acquittal must be filed; am I correct?

22 MR. KNOX: Mr. Garcia said it is 14 days. I
23 didn't know if the Court had any different policy or
24 standing order.

25 MR. GARCIA: Judge, I may look younger than

1 everybody else, but I still carry the book as well.

2 MR. MEDDERS: Show off.

3 MR. GARCIA: It is 14 days, subsection (c) the
4 time is within 14 days of a guilty verdict or after the
5 Court discharges the jury.

6 THE COURT: That is correct 29(c) says 14 days,
7 so the Court discharged the jury today. All right, is
8 there anything else?

9 MR. MEITL: No, Your Honor.

10 MR. CANEZ: No, Your Honor.

11 MR. GIBSON: No, Your Honor.

12 THE COURT: All right, the Court stated the
13 marshals will take them into custody, Mr. Hinojosa,
14 Mr. Casas and Mr. Rodriguez.

15 Yes, Mr. Garcia?

16 MR. GARCIA: Your Honor, with respect to our
17 request to extend the deadline for motion for new trial
18 by 30 days, I don't believe the Court ruled on that
19 request, so I was going to address that.

20 THE COURT: I didn't hear the last part of your
21 statement.

22 MR. GARCIA: With regard to our request for a
23 extension of 30 days to file the motion for new trial in
24 this case. I don't believe that the Court had ruled on
25 that request.

1 THE COURT: All right, just one minute, please.
2 What is the government's response to the motion for new
3 trial?

4 MR. MEITL: We certainly oppose the motion for
5 new trial, but the issue of when to file the notice, we
6 have no opposition to that. They can have as long as
7 they want.

8 THE COURT: All right, what I understand the
9 government's position is the government is opposed to the
10 -- would be opposed to the actual motion. However, there
11 is no objection for the extension that you are asking for
12 extension of what? 30 days?

13 MR. GARCIA: One second, Your Honor. I don't
14 believe Rule 29 has a specific time for motions for new
15 trial to be filed. I believe probably the default is 14
16 days after the verdict, so I guess to make it clear, Your
17 Honor, we would ask for just a 45-day extension from
18 today. So that would give us 30 days past the 14 days.
19 I think that is probably the easiest way to request the
20 extension.

21 THE COURT: Okay, I am going to do this. I will
22 grant whether or not it is going to be 30 or 45 days. I
23 will need to cogitate on that. I will get an order out
24 on that. Whatever I put in the order, that will be time.

25 MR. GIBSON: Judge, will that be all of the

1 Defendants, the extension of time or do we join his
2 request?

3 THE COURT: You have. I have not heard from the
4 other two.

5 MR. KNOX: I would like to join as well.

6 MR. CANEZ: Your Honor, I would too.

7 THE COURT: All right, that will apply to all
8 four Defendants.

9 Anything else?

10 MR. GARCIA: Nothing from us.

11 MR. GIBSON: No, Your Honor.

12 THE COURT: All right, the Court is in recess.
13 As the Court stated earlier, it will decide on the motion
14 regarding whether the three defendants should be taken
15 into custody or refer the matter to the magistrate judge.
16 In the meantime, they will be taken into custody.

17 THE COURT SECURITY OFFICER: All rise.

18 *I certify that the foregoing is a correct transcript from*
19 *the record of proceedings in the above-entitled matter.*
20 *I further certify that the transcript fees format comply*
with those prescribed by the court and the Judicial
Conference of the United States.

21 S/Charyse Crawford 09-01-2022
22 Signature _____ Date: _____
23 Charyse C. Crawford, CSR, RPR
United States Court Reporter
24 Northern District of Texas - Dallas Division
25